

SEP 01 2015

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By _____
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6 Attorneys for Plaintiff
J & J Sports Productions, Inc.

7 IN THE UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

9 J & J SPORTS PRODUCTIONS, INC.,

Case No.: 15-5208

10 Plaintiff,

11 COMPLAINT

12 vs.

13 MARCELA J. LARA A/K/A MARCELA J.
14 ALVAREZ, ANTONIO LARA and LUIS
15 ALVAREZ, individually and d/b/a EL FAR
16 WEST DISCOTHEQUE; and EL CLUB
17 SONIDERO, INC., an unknown business
entity d/b/a EL FAR WEST DISCOTHEQUE,

18 Defendants.

19 PLAINTIFF ALLEGES:

20 JURISDICTION

21 1. Jurisdiction is founded on the existence of a question arising under particular statutes. This
22 action is brought pursuant to several federal statutes, including the Communications Act of
23 1934, as amended, Title 47 U.S.C. 605, *et seq.*, and The Cable & Television Consumer Protection
24 and Competition Act of 1992, as amended, Title 47 U.S. Section 553, *et seq.*

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2. This Court has jurisdiction of the subject matter of this action pursuant to 28 U.S.C. Section 1331, which states that the District Courts shall original jurisdiction of all civil actions arising under the Constitution, laws, or treaties, of the United States. This Court has subject matter jurisdiction over the state law claims pursuant to 28 U.S.C. § 1337 (supplemental jurisdiction).

3. This Court has personal jurisdiction over the parties in this action as a result of the Defendants' wrongful acts hereinafter complained of which violated the Plaintiff's rights as the exclusive commercial domestic distributor of the televised fight *Program* hereinafter set forth at length. The Defendants' wrongful acts consisted of the interception, reception, publication, divulgence, display, exhibition, and tortious conversion of said property of Plaintiff within the control of the Plaintiff in the State of Arkansas.

VENUE

4. Pursuant to Title 47 U.S.C. Section 605, venue is proper in the Western District of Arkansas, because a substantial part of the events or omissions giving rise to the claim occurred in this District.

INTRADISTRICT ASSIGNMENT

5. Assignment to the Fayetteville Division of the Western District of Arkansas is proper because a substantial part of the events or omissions giving rise to the claim occurred in Benton County and/or the United States District Court for the Western District of Arkansas has decided that suits of this nature, and each of them, are to be heard by the Courts in this particular Division.

THE PARTIES

6. Plaintiff, J & J Sports Productions, Inc. is, and at all relevant times mentioned was, a California corporation with its principal place of business located at 2380 South Bascom Avenue, Suite 200, Campbell, California 95008.

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1 7. Defendant Marcela J. Lara a/k/a Marcela J. Alvarez is an officer of El Club Sonidero, Inc.,
2 which owns and operates the commercial establishment doing business as El Far West
3 Discotheque. El Far West Discotheque operates at 2101 1/2 South 8th Street, Rogers, Arkansas
4 72758.

5 8. Defendant Marcela J. Lara a/k/a Marcela J. Alvarez is also one of three individuals (the
6 other being Defendants Antonio Lara and Luis Alvarez) specifically identified on the Arkansas
7 Alcoholic Beverage Control license issued for El Far West Discotheque.

8 9. Defendant Antonio Lara is an officer of El Club Sonidero, Inc., which owns and
9 operates the commercial establishment doing business as El Far West Discotheque. El Far
10 West Discotheque operates at 2101 1/2 South 8th Street, Rogers, Arkansas 72758.

11 10. Defendant Antonio Lara, is also one of three individuals (the other being
12 Defendants Marcela J. Lara a/k/a Marcela J. Alvarez and Luis Alvarez) specifically identified on
13 the Arkansas Alcoholic Beverage Control license issued for El Far West Discotheque.

14 11. Defendant Luis Alvarez, is an officer of El Club Sonidero, Inc., which owns and
15 operates the commercial establishment doing business as El Far West Discotheque. El Far
16 West Discotheque operates at 2101 1/2 South 8th Street, Rogers, Arkansas 72758.

17 12. Defendant Luis Alvarez, is also one of three individuals (the other being Defendants
18 Marcela J. Lara a/k/a Marcela J. Alvarez and Antonio Lara) specifically identified on the Arkansas
19 Alcoholic Beverage Control license issued for El Far West Discotheque.

20 13. Plaintiff is informed and believes, and alleges thereon that on September 14, 2013 (the
21 night of the *Program* at issue herein, as more specifically defined in paragraph 26), Defendant
22 Marcela J. Lara a/k/a Marcela J. Alvarez had the right and ability to supervise the activities of El
23 Far West Discotheque, which included the unlawful interception of Plaintiff's *Program*.

24 14. Plaintiff is informed and believes, and alleges thereon that on September 14, 2013 (the
25 night of the *Program* at issue herein, as more specifically defined in paragraph 26), Defendant
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1 Antonio Lara had the right and ability to supervise the activities of El Far West Discotheque,
2 which included the unlawful interception of Plaintiff's *Program*.

3 15. Plaintiff is informed and believes, and alleges thereon that on September 14, 2013 (the
4 night of the *Program* at issue herein, as more specifically defined in paragraph 26), Defendant Luis
5 Alvarez had the right and ability to supervise the activities of El Far West Discotheque, which
6 included the unlawful interception of Plaintiff's *Program*.

7 16. Plaintiff is informed and believes, and alleges thereon that on September 14, 2013 (the
8 night of the *Program* at issue herein, as more specifically defined in paragraph 26), Defendant
9 Marcela J. Lara a/k/a Marcela J. Alvarez, as an individual specifically identified on the liquor
10 license for El Far West Discotheque, had the obligation to supervise the activities of El Far West
11 Discotheque, which included the unlawful interception of Plaintiff's *Program*, and, among other
12 responsibilities, had the obligation to ensure that the liquor license was not used in violation of law.

13 17. Plaintiff is informed and believes, and alleges thereon that on September 14, 2013 (the
14 night of the *Program* at issue herein, as more specifically defined in paragraph 26), Defendant
15 Antonio Lara, as an individual specifically identified on the liquor license for El Far West
16 Discotheque, had the obligation to supervise the activities of El Far West Discotheque, which
17 included the unlawful interception of Plaintiff's *Program*, and, among other responsibilities, had the obligation
18 to ensure that the liquor license was not used in violation of law.

19 18. Plaintiff is informed and believes, and alleges thereon that on September 14, 2013 (the
20 night of the *Program* at issue herein, as more specifically defined in paragraph 26), Defendant Luis
21 Alvarez, as an individual specifically identified on the liquor license for El Far West Discotheque,
22 had the obligation to supervise the activities of El Far West Discotheque, which included the
23 unlawful interception of Plaintiff's *Program*, and, among other responsibilities, had the obligation
24 to ensure that the liquor license was not used in violation of law.

25 19. Plaintiff is informed and believes, and alleges thereon that on September 14, 2013 (the
26 night of the *Program* at issue herein, as more specifically defined in paragraph 26), Defendants
27 Marcela J. Lara a/k/a Marcela J. Alvarez, Antonio Lara and Luis Alvarez, specifically directed the
28 employees of El Far West Discotheque to unlawfully intercept and broadcast Plaintiff's *Program*

1 at El Far West Discotheque or that the actions of the employees of El Far West Discotheque are
2 directly imputable to Defendants Marcela J. Lara a/k/a Marcela J. Alvarez, Antonio Lara and Luis
3 Alvarez by virtue of their acknowledged responsibility for the actions of El Far West Discotheque.

4 20. Plaintiff is informed and believes, and alleges thereon that on September 14, 2013,
5 Defendant Marcela J. Lara a/k/a Marcela J. Alvarez as an officer of El Club Sonidero, Inc. and as
6 an individual specifically identified on the liquor license for El Far West Discotheque, had an
7 obvious and direct financial interest in the activities of El Far West Discotheque, which included
8 the unlawful interception of Plaintiff's *Program*.

9 21. Plaintiff is informed and believes, and alleges thereon that on September 14, 2013,
10 Defendant Antonio Lara, as an officer of El Club Sonidero, Inc. and as an individual specifically
11 identified on the liquor license for El Far West Discotheque, had an obvious and direct financial
12 interest in the activities of El Far West Discotheque, which included the unlawful interception of
13 Plaintiff's *Program*.

14 22. Plaintiff is informed and believes, and alleges thereon that on September 14, 2013,
15 Defendant Luis Alvarez, as an officer of El Club Sonidero, Inc. and as an individual specifically
16 identified on the liquor license for El Far West Discotheque, had an obvious and direct financial
17 interest in the activities of El Far West Discotheque, which included the unlawful interception of
18 Plaintiff's *Program*.

19 23. Plaintiff is informed and believes, and alleges thereon that the unlawful broadcast of
20 Plaintiff's *Program*, as supervised and/or authorized by Defendants Marcela J. Lara a/k/a Marcela
21 J. Alvarez, Antonio Lara and Luis Alvarez, resulted in increased profits for El Far West
22 Discotheque.

23 24. Plaintiff is informed and believed, and alleges thereon that Defendant, El Club Sonidero,
25 Inc. is an owner, and/or operator, and/or licensee, and/or permittee, and/or person in charge, and/or
26 an individual with dominion, control, oversight and management of the commercial establishment
27 doing business as El Far West Discotheque operating at 2101 1/2 South 8th Street, Rogers,
28 Arkansas 72758.

COUNT I

(Violation of Title 47 U.S.C. Section 605)

25. Plaintiff J & J Sports Productions, Inc., hereby incorporates by reference all of the allegations contained in paragraphs 1-24, inclusive, as though set forth herein at length.

26. Pursuant to contract, Plaintiff J & J Sports Productions, Inc., was granted the exclusive nationwide commercial distribution (closed-circuit) rights to "*The One*": *Floyd Mayweather, Jr. v. Saul Alvarez, WBC Light Middleweight Championship Fight Program*, telecast nationwide on Saturday, September 14, 2013 (this included all under-card bouts and fight commentary encompassed in the television broadcast of the event, hereinafter referred to as the "*Program*").

27. Pursuant to contract, Plaintiff J & J Sports Productions, Inc., entered into subsequent sublicensing agreements with various commercial entities throughout North America, including entities within the State of Arkansas, by which it granted these entities limited sublicensing rights, specifically the rights to publicly exhibit the *Program* within their respective commercial establishments in the hospitality industry (i.e., hotels, racetracks, casinos, bars, taverns, restaurants, social clubs, etc.).

28. As a commercial distributor and licensor of sporting events, including the *Program*, Plaintiff J & J Sports Productions, Inc., expended substantial monies marketing, advertising, promoting, administering, and transmitting the *Program* to its customers, the aforementioned commercial entities.

29. With full knowledge that the *Program* was not to be intercepted, received, published, divulged, displayed, and/or exhibited by commercial entities unauthorized to do so, each and every one of the above named Defendants, either through direct action or through actions of employees or agents directly imputable to Defendants (as outlined in paragraphs 7-24 above), did unlawfully intercept, receive, publish, divulge, display, and/or exhibit the *Program* at the time of its transmission at their commercial establishment in Rogers, Arkansas located at 2101 1/2 South 8th Street, Rogers, Arkansas 72758.

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30. Said unauthorized interception, reception, publication, exhibition, divulgence, display, and/or exhibition by each of the Defendants was done willfully and for purposes of direct and/or indirect commercial advantage and/or private financial gain.

31. Title 47 U.S.C. Section 605, *et seq.*, prohibits the unauthorized publication or use of communications (such as the transmission of the *Program* for which Plaintiff J & J Sports Productions, Inc., had the distribution rights thereto).

32. By reason of the aforesaid mentioned conduct, the aforementioned Defendants, and each of them, violated Title 47 U.S.C. Section 605, *et seq.*

33. By reason of the Defendants' violation of Title 47 U.S.C. Section 605, *et seq.*, Plaintiff J & J Sports Productions, Inc., has the private right of action pursuant to Title 47 U.S.C. Section 605.

34. As the result of the aforementioned Defendants' violation of Title 47 U.S.C. Section 605, and pursuant to said Section 605, Plaintiff J & J Sports Productions, Inc., is entitled to the following from each Defendant:

- (a) Statutory damages for each violation of in an amount to \$10,000 pursuant to Title 47 U.S.C. Section 605(e)(3)(C)(i)(II); and also
 - (b) Statutory damages for each willful violation in an amount to \$100,000.00 pursuant to Title 47 U.S.C. 605(e)(3)(C)(ii), and also
 - (c) the recovery of full costs, including reasonable attorneys' fees, pursuant to Title 47 U.S.C. Section 605(e)(3)(B)(iii).

WHEREFORE, Plaintiff prays for judgment as set forth below.

COUNT II

(Violation of Title 47 U.S.C. Section 553)

35. Plaintiff's hereby incorporates by reference all of the allegations contained in paragraphs 1-34, inclusive, as though set forth herein at length.

36. The unauthorized interceptions, reception, publication, divulgence, display, and/or exhibition of the *Program* by the above named Defendants was prohibited by Title 47 U.S.C. Section 553, *et seq.*

37. By reason of the aforesaid mentioned conduct, the aforementioned Defendants, and each of them, violated Title 47 U.S.C. Section 553, *et seq.*

38. By reason of the Defendants' violation of Title 47 U.S.C. Section 553, *et seq.*, Plaintiff J & J Sports Productions, Inc., has the private right of action pursuant to Title 47 U.S.C. Section 553.

39. As the result of the aforementioned Defendants' violation of Title 47 U.S.C. Section 553, Plaintiff J & J Sports Productions, Inc., is entitled to the following from each Defendant:

- (a) Statutory damages for each violation in an amount to \$10,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(A)(ii); and also
 - (b) Statutory damages for each willful violation in an amount to \$50,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(B); and also
 - (c) the recovery of full costs pursuant to Title 47 U.S.C. Section 553 (c)(2)(C); and also
 - (d) and in the discretion of this Honorable Court, reasonable attorneys' fees, pursuant to Title 47 U.S.C. Section 553 (c)(2)(C).

WHEREFORE, Plaintiff prays for judgment as set forth below.

COUNT III
(Conversion)

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2 40. Plaintiff's hereby incorporates by reference all of the allegations contained in paragraphs 1-
39, inclusive, as though set forth herein at length.
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4 41. By their aforesaid acts of interception, reception, publication, divulgence, display, and/or
5 exhibition of the *Program* at their commercial establishment at the above-captioned address, the
6 aforementioned Defendants, and each of them, tortuously obtained possession of the *Program* and
7 wrongfully converted same for their own use and benefit.
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9 42. The aforesaid acts of the Defendants were willful, malicious, egregious, and intentionally
10 designed to harm Plaintiff J & J Sports Productions, Inc., by depriving Plaintiff of the commercial
11 license fee to which Plaintiff was rightfully entitled to receive from them, and in doing so, the
12 Defendants subjected the Plaintiff to severe economic distress and great financial loss.
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14 43. Accordingly, Plaintiff J & J Sports Productions, Inc., is entitled to both compensatory, as
15 well as punitive and exemplary damages, from aforementioned Defendants as the result of the
16 Defendants' egregious conduct, theft, and conversion of the *Program* and deliberate injury to the
17 Plaintiff.
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19 **WHEREFORE, Plaintiff prays for judgment as set forth below.**
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21 **As to the First Count:**
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- 23 1. For statutory damages in the amount of \$110,000.00 against the Defendants,
24 and each of them, and
25 2. For reasonable attorneys' fees as mandated by statute, and
26 3. For all costs of suit, including but not limited to filing fees, service of
27 process fees, investigative costs, and
28 4. For such other and further relief as this Honorable Court may deem just
 and proper;

29 **As to the Second Count:**
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- 1 1. For statutory damages in the amount of \$60,000.00 against the Defendants,
2 and each of them, and;
- 3 2. For reasonable attorneys' fees as may be awarded in the Court's
4 discretion pursuant to statute, and;
- 5 3. For all costs of suit, including but not limited to filing fees, service
6 of process fees, investigative costs, and;
- 7 4. For such other and further relief as this Honorable Court may deem just
8 and proper.

9 **As to the Third Count:**

- 10 1. For compensatory damages in an amount according to proof against the
11 Defendants, and each of them, and;
- 12 2. For exemplary damages against the Defendants, and each of them, and;
- 13 3. For punitive damages against the Defendants, and each of them, and;
- 14 4. For reasonable attorneys' fees as may be awarded in the Court's discretion pursuant
15 to statute, and;
- 16 5. For all costs of suit, including but not limited to filing fees, service of process fee,
17 investigative costs, and;
- 18 6. For such other and further relief as this Honorable Court may deem just and proper.

20 Respectfully submitted,

22 Date: 8/24/15

23 
24 LAW OFFICES OF THOMAS P. RILEY, P.C.
25 By: Thomas P. Riley
26 Attorneys for Plaintiff
27 J & J Sports Productions, Inc.

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